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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 941,343	08 29 2001	Seng Tan	1511(Wright)	5856

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EXAMINER

LISH, PETER J

ART UNIT PAPER NUMBER

1754

DATE MAILED: 02/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,343

Applicant(s)

TAN ET AL.

Examiner

Peter J Lish

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 states that in a process including the steps of forming a carbon precursor, and stabilizing and carbonizing said carbon precursor. It later states that the catalyst permits elimination of the stabilization step. Claims 1 and 12 are thus inconsistent in the use of a stabilization step. Additionally, the use of the term "at the atomic level" in claims 1 and 12 is unclear.

Claims 6-9 and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Because lanthanum series elements are transition metals, it is unclear as to whether the designation of this series is meant to provide a limitation over other transition metals.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-10, 12-14, and 17-21 are rejected under 35 U.S.C. 102(b) as anticipated by Tachibana (USPN 4,970,189).

Tachibana discloses a process of mixing fine particles (less than 1 micron) of a metal oxide, preferably a transition metal and optionally iron, in an organic substance that may be heated to produce a carbonaceous body, such as petroleum or coal tar pitch. The preferred method of mixing the organic precursor material and the metal oxide is by blending the molten organic pitch with the metal oxide powder. The pitch - metal oxide mixture is then exposed to heat in a non-oxidizing atmosphere in order to carbonize the organic material. During this carbonization process, the metal oxide is decomposed into its elemental metal.

Claims 4-5 and 15-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tachibana.

The Tachibana reference is applied as above. The content of the metal oxide in the mixture is held whereas the content of the elemental metal in the carbonaceous body (post carbonization) is between 5 and 50 wt% based on the total weight of the elemental metal and the

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carbonaceous body. It expected that this yields a metal oxide mixing range which is equivalent to that claimed by the applicant. Alternatively, it would be obvious to one of ordinary skill to use a metal oxide weight percentage of between 3 and 30%, as claimed by the applicant, in order to provide a metal weight percentage of between 5 and 50%.

Claims 1,3, 11 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawaki et al. (USPN 4,840,762).

Sawaki et al. disclose a process for the production of carbon fibers whereby a fine powder of metal oxides (less than 1 micron), including those of zinc and titanium, are added to a pitch fiber bundle prior to stabilization and carbonization. As means for attaching the fine powder to the precursor fiber, Sawaki et al. teach that the fine powder may be directly sprayed onto the fiber bundle by using a gas as a dispersion medium (column 4, lines 22-25).

Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Hamling (USPN 3,385,915).

Hamling discloses the production of carbon materials, such as fibers, textiles, and shapes which contain lanthanide or transition metal oxides (example 6).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Lish whose telephone number is 703-308-1772. The examiner can normally be reached on 9:00-6:00 Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 703-308-3837. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-305-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

PL
January 21, 2003



STUART L. HENDRICKSON
PRIMARY EXAMINER